## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI CENTRAL DIVISION

No. 156733,	)	
Plaintiff,	)	
	)	No. 06-4069-CV-C-NKL
	)	
Defendants.	)	
		Plaintiff, ) ) ) ) ) ) ) ) )

## **ORDER**

On May 30, 2006, the United States Magistrate Judge recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on June 8, 2006. Plaintiff is correct that he paid the full filing fee on May 15, 2006, and dismissal, pursuant to 28 U.S.C. § 1915(g), is not warranted.

Nevertheless, the court is required to screen all prisoner cases, pursuant to 28 U.S.C. § 1915A, and must dismiss the case if it fails to state a claim for which relief can be granted. In this case, plaintiff challenges a conduct violation and discipline he received. He claims he received a false disciplinary charge and the prison rule book did not put him on notice that conspiracy would subject him to disciplinary action. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The case cited by plaintiff predates the Supreme Court's decision in Sandin v. Connor, 515 U.S. 472 (1995), and is not current. The court is persuaded that the recommendation of the Magistrate Judge on the merits of plaintiff's complaint is correct and should be adopted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is

considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's May 30, 2006 Report and Recommendation is adopted, in part [6]. It is further

ORDERED that plaintiff's claims are dismissed, pursuant to the provisions of 28 U.S.C. § 1915A, for failure to state a claim for which relief can be granted.

/s/

NANETTE K. LAUGHREY United States District Judge

Dated: November 2, 2006 Jefferson City, Missouri